



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
New York, NY 10007*

September 15, 2023

**By ECF**

Hon. Philip M. Halpern  
United States District Judge  
United States Courthouse  
300 Quarropas Street  
White Plains, NY 10601

Re: *Safranek v. Wormuth, et al.*, No. 23 Civ. 5985 (PMH) (JCM)

Dear Judge Halpern:

This Office represents defendants Hon. Christine E. Wormuth, Secretary of the Army, and Lt. Gen. Steven W. Gilland, Superintendent at West Point Military Academy, in the above-referenced action brought by plaintiff Austin A. Safranek ("Plaintiff"), pursuant to the Administrative Procedure Act, 5 U.S.C. §§ 701, *et seq.* ("APA"). I write, together with counsel for Plaintiff, copied here and who has read and approved this letter, to jointly respectfully request that the Court so-order the proposed Stipulation and Order of Voluntary Remand, filed concurrently with this letter, remanding this matter to the Army Board for Correction of Military Records ("ABCMR").

On July 12, 2023, Plaintiff filed his Complaint in this action. (ECF No. 1). Plaintiff seeks judicial review under the APA of a March 28, 2022 decision by the ABCMR denying his April 30, 2019 application for correction of military records with respect to his discharge and educational recoupment requirement. (*Id.* ¶¶ 1-6, 14-15.) Plaintiff alleges that the ABCMR failed to address issues raised by Plaintiff in his application and failed to provide an explanation for its decision. (*Id.* ¶¶ 98-125). Plaintiff requests that the Court remand the matter back to the ABCMR with instructions to consider and issue a reasoned and substantive determination with respect to his claims raised in the Complaint. (*Id.*, Prayer for Relief.)

In order to resolve these issues and conserve judicial resources, the parties agree that voluntary remand of this matter to the ABCMR and a stay of proceedings in this action is warranted. As provided in the proposed Stipulation and Order, on remand, the ABCMR will review and reconsider the claims raised by Plaintiff in his Complaint and issue a new decision within 180 days. The proposed Stipulation and Order also provides that within 30 days after the ABCMR's new decision, the parties will file a joint status report providing their recommendations to the Court for how this action should proceed. In the meantime, this action will be stayed until further order of the Court.

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We thank the Court for its consideration of this request.

Respectfully submitted,

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